IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 794 OF 2003

Indian Railway Technical Staff
Association & anr. ... Petitioenrs

Vs.

Union of India and anr. ... Respondents

Mr. R.G. Walia for Petitoiner.

Mr. Suresh Kumar for Respondents.

CORAM : F.I. REBELLO,J.
DATED : SEPTEMBER 28, 2004

P.C.

1. In the reference made to the Industrial Tribunal at the instance of the petitioners, the learned Tribunal was pleased to record a finding that Shri. Subrato Roy is not a workman within the meaning of Section 2 (s) of the Industrial Disputes Act, 1947 and accordingly held that the Reference was not maintainable and consequently did not answer the other issues which were referred to. The only discussion for holding that the workman was not workman within the meaning of Section 2 is found in Paragraph 13 of the Award. The contention of the Respondent Management was that the workman was working in supervisory cadre. The evidence led on behalf of the company is considered in Paragraph 9 based on which the workman was held to be of assistant cadre and the post is treated as shift incharge. The learned tribunal in Paragraph 13 merely observed that the workman was drawing basic salary more than Rs.2,450/- per month and that his

services were of essential category. No specific finding has been recorded based on the material as to how the duties attached to the post would make the post supervisory to bring it within the meaning of Section 2(s). Considering the above, to my mind the impugned award will have to be set aside and the matter remanded back to the Industrial Tribunal for recording a finding afresh as to whether the petitioner is workman within the meaning of Section 2(s) and if that is answered in the affirmative to answer the other issues which were framed.

2. In the light of the above, the following order :

. Matter remanded back to the Industrial Tribunal No. 2 Mumbai for deciding the issue afresh in terms aforestated and accordingly answer the consequential issues.

. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)